

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

In the matter of: )

Petition for the Extension of the )  
Compliance Date of the Communication )  
Assistance for Law Enforcement Act )  
by Redcom Laboratories Inc. )

CC Docket No. 97-213

To: The Commission

**PETITION FOR EXTENSION OF COMPLIANCE DATE**

**I. Petition**

Redcom Laboratories Incorporated ("Redcom") hereby respectfully petitions the Commission for an extension of CALEA's October 25, 1998 deadline for compliance with Section 103 until at least October 24, 2000. As detailed below, compliance with CALEA's assistance capability requirements is not reasonably achievable for at least two years. Although section 107(c) of the Communication Assistance for Law Enforcement Act ("CALEA") specifies "telecommunications carrier" with respect to petitioning the Commission for a compliance date extension, Redcom believes the circumstances, as explained below warrant consideration of this petition by the Commission.

**II. Petitioner**

Redcom is a privately held corporation that designs, manufactures, and delivers a wide range of relatively small switching platforms including types used by Local Exchange Carriers for end office applications. At less than 200 employees, we are probably the smallest manufacturer of central office switching equipment in the United States. Our Common Carrier customers tend to be small rural providers.

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### **III. Background**

#### **A. General**

As the Commission is well aware from the comments filed in response to its recent Public Notice,<sup>1</sup> as well as in its Notice of Proposed Rulemaking initiated last October,<sup>2</sup> regrettable delays in the industry standards process caused by on-going disputes over CALEA's capability requirements have occurred. In addition, publication of the Attorney General's final capacity notice did not take place until March 12, 1998, more than two years after the original deadline. The result is that CALEA-compliant equipment will not be commercially available by October 25, 1998.<sup>3</sup> Indeed, even the Department of Justice ("DoJ") and the Federal Bureau of Investigation ("FBI") have recognized -- given manufacturers' anticipated deployment schedules -- that such equipment will not be available until after that date.<sup>4</sup>

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<sup>1</sup> Public Notice, In the Matter of Communication Assistance for Law Enforcement Act, DA No. 98-762, CC Docket No. 97-213 (released on April 20, 1998) ("Public Notice").

<sup>2</sup> Notice of Proposed Rulemaking, In the Matter of Communication Assistance for Law Enforcement Act, CC Docket No. 97-213, FCC Docket No. 97-356 (released Oct. 10, 1997) ("CALEA NRPM").

<sup>3</sup> See, e.g., Comments of the Telecommunications Industry Association (filed on May 8, 1998)

<sup>4</sup> Federal Bureau of Investigation and Department of Justice, Joint Petition for Rulemaking for Establishment of Technical Requirements and Standards for Telecommunications Carrier Assistance Capabilities Under the Communications Assistance for Law Enforcement Act ¶ 118 (filed March 27, 1998) ("FBI/DoJ Joint Petition"); Federal Bureau of Investigation, Communications Assistance for Law Enforcement Act (CALEA) Implementation Report, at 15 & Appendix B (January 26, 1998) ("1998 FBI Implementation Report").

## **B. Redcom related**

Unfortunately, the current challenges<sup>5</sup> to the industry standard J-STD-025 only further delay Redcom's efforts to make CALEA-compliant equipment available. As the Telecommunication Industry Association ("TIA") explained in its recent petition to the Commission, these challenges make it technically difficult and financially imprudent for manufacturers to proceed with development of their CALEA solutions.<sup>6</sup> Without certainty as to a standard to which to build, Redcom risks wasting valuable engineering resources, sacrificing other profit making activity, and suffering the enormous costs of designing, building and testing a solution that might be made obsolete by the Commission's decision.

Do to its small size, Redcom will be affected to a disproportionately greater extent than manufacturers of large switches. The design cost of implementing a final CALEA solution into a manufacturer's switching platform is comparable for most manufacturers. However the impact of this effort on a small company

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<sup>5</sup> Center for Democracy and Technology, Petition for Rulemaking under Sections 107 and 109 of the Communications Assistance for Law Enforcement Act (filed March 26, 1998) ("CDT Petition"); FBI/DoJ Joint Petition.

<sup>6</sup> Telecommunications Industry Association, Petition for Rulemaking under Section 1006 of the Communications Act of 1934, as amended, and Section 107 of the communication Assistance for Law Enforcement Act to Resolve Technical Issues and Establish a New Compliance Schedule, at 5-7 (filed April 2, 1998) ("TIA Petition"). See also, AT&T Wireless Services, Inc., Lucent Technologies Inc. & Ericsson Inc., Petition for Extension of the Compliance Date under Section 107 of the Communication Assistance for Law Enforcement Act, at 9-10 (filed March 30, 1998) ("AT&T Wireless Petition"); Cellular Telecommunications Industry Association, Personal Communications Industry Association & United States Telephone Association, Response to Petitions for Rulemaking for Establishment of Technical Standards for Telecommunications Carriers and a New Compliance Schedule under the Communications Assistance for Law Enforcement Act, at 11 (filed on April 9, 1998) ("Carrier Association Response").

such as Redcom is far greater than on large switch manufacturers since a higher percentage of our resources would be needed to accomplish this task in a similar time frame.

There are also significant cost recovery issues for small manufacturers that we have not seen discussed in other CALEA filings. As compared to large switch manufacturers, Redcom must recover its costs over a much smaller installed base consisting of very small switches. Large switch manufacturers, while possible competitors of Redcom in the small switch arena, still have the large switches to absorb their development cost. Therefore, Redcom finds itself at a competitive disadvantage due to the mandated requirements of CALEA. Additionally, section 109 of CALEA allows for Carrier cost recovery only. The development cost for a CALEA solution must be born solely by the manufacturer. In theory, manufacturers would recover their development costs when their customers (carriers) upgraded to be CALEA compliant. For large switch manufacturers, this works. In a report released in early 1998 by the DoJ and FBI, 90 percent of historical intercept activity "... of wireline interceptions occurred on Nortel, Lucent, and Siemens switches".<sup>7</sup> The DoJ and FBI have placed the highest priority for CALEA upgrades on these large switches and the carriers that use them. Consequently, available funding pursuant to section 110 of CALEA will be directed at the carriers that use those large switches. Indeed, section 109(c) of CALEA specifically directs the Attorney General to allocate funds "... in accordance with law enforcement priorities ...".

Redcom manufactures switches that are relatively small. The majority of our central office equipment tends to be located in small rural communities that traditionally have had little or no historical interception activity. In addition these

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<sup>7</sup> FBI/DoJ Implementation Report, at 6.

offices do not have some of the advanced features such as ISDN Basic Rate lines or large multi-party conferences that hinder traditional types of law enforcement electronic surveillance. Therefore, we believe that it is highly likely that under section 109(b)(2)(B) and section 109 (d) of CALEA, the Attorney General will not agree to pay for CALEA upgrades to most of these rural carriers and they will therefore be considered to be in compliance with CALEA until the carrier performs a normal upgrade or switch replacement. If this does indeed happen, Redcom will not be able to recover its development costs.

Section 106(a) of CALEA states that "A telecommunication carrier shall consult, as necessary, in a timely fashion with manufacturers of its telecommunication transmission and switching equipment ...". Yet as of mid April 1998, Redcom had NO inquiries from any of its customers! As of the date of this petition, we have had only two inquiries, one of which was initiated by us! Under section 104(d) of CALEA, carriers must submit a statement to the Attorney General identifying any of its equipment that does not have the capacity to accommodate the number and types of interceptions set forth in the Final Notice of capacity within 180 days of the publication date of the Final Notice. The publication date of the Final Notice in the Federal Register was March 12, 1998. Without the Carrier Statement on file, carriers will not be eligible for CALEA upgrade cost recovery from the Attorney General.

How can carriers using Redcom equipment submit a Carrier Statement to the Attorney General without consulting with Redcom? How can carriers using Redcom equipment petition the Commission for a CALEA compliance date extension without consulting with Redcom? It is our belief that even if our customers are aware of CALEA, they are most certainly not aware of its significance or implications. Redcom therefore concluded that it was imperative for us to petition the Commission. As the manufacturer of telecommunication

switching equipment used by our common carrier customers, we know it would be impossible for them to comply with the October 25, 1998 deadline if our equipment could not reasonably comply by that date.

#### **IV. Small Business Impact**

Over half of the USA working population is employed by "small business". Theoretically, current CALEA implementation requirements could legislate Redcom out of the Central Office marketplace in this country, requiring a reduction in our work force and thus impacting the health of our company and our community. If means of alternative funding were available for small businesses, this would alleviate the problem.

#### **V. Summary**

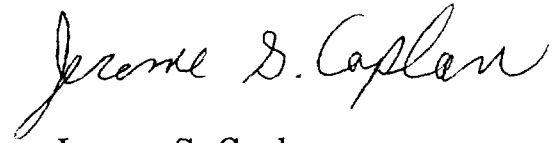
Compliance with CALEA is not reasonably achievable by October 25, 1998 due to reasons cited in this petition and those referenced in other filings. Most of our customers do not appear to be aware of the deadlines, significance or implications of CALEA. Cost recovery issues still need to be explored. Redcom needs time to explore all these issues with our customers and the FBI.<sup>8</sup> Although CALEA under section 107(c) specifies a "telecommunications carrier" with respect to petitioning the Commission for a compliance date extension, CALEA also recognizes a telecommunications "manufacturer" as an important entity necessary for compliance. This is evidenced by the inclusion of some form of the term "manufacturer" in sections 103, 104, 106, 107 and 108 of CALEA. Redcom therefore respectfully requests the Commission's consideration of this petition.

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<sup>8</sup> At the request of the FBI's CALEA Implementation Group (CIS), Redcom met with representatives of the FBI and Booz-Allen (Technical consultants retained by the FBI) on April 15, 1998 in Chantilly, VA. It was indicated by the FBI that this was the first of several meetings.

May 29, 1998

Respectfully submitted,

A handwritten signature in cursive script that reads "Jerome S. Caplan". The signature is written in dark ink and is positioned above the printed name and title.

Jerome S. Caplan  
Director of Compliance  
and System Certification

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